HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

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WRIT APPEAL No.141 of 2007

Between:

G. Rajendranath Goud

… Appellant

AND

The Commissioner of Endowments,
Hyderabad & others.

… Respondents

:: J U D G M E N T ::

Counsel for the appellant : Shri K. Govind

Dated: 08.02.2007

Per C.V.NAGARJUNA REDDY, J.

This is an appeal for setting aside order dated 28.4.2006 passed by the learned Single Judge in Writ Petition No.10081 of 2006 whereby he rejected the appellant's prayer for issue of a writ of mandamus to restrain Deputy Commissioner of Endowment, Hyderabad (respondent No. 2 herein) from continuing the proceedings of O.A.No.14 of 2006.

The appellant and respondent No. 3 claim to be a member of the founder's family in respect of Sri Venkateshwara Swamy Temple, Chikkadpally (hereinafter described as 'Devasthanam'). Respondent No. 3 made representations dated 22.08.2005 and 20.06.2005 to respondent No.1 for recognizing him as a member of the founder's family of the said Devasthanam. After some time, respondent No. 3 filed Writ Petition No.17047 of 2005 with the complaint that the representations made by him were not being decided by the concerned authority. The same was disposed of by the learned Single Judge on 30.08.2005 with the direction to the Commissioner of Endowments, Andhra Pradesh (respondent No. 1 herein) to decide the representations of the writ petitioner (respondent No. 3 herein) within three weeks from the date of receipt of a copy of the order by recording reasons and communicate the decision so arrived at to respondent No.3.

Thereafter, respondent No. 1 issued notice to the interested parties including the appellant, who challenged the same in W.P.No.20836 of 2005. The appellant contended that Government alone was competent to adjudicate upon any claim for being recognized as a member of a founder's family and, therefore, the proceedings initiated by respondent No. 1 were liable to be declared without jurisdiction and quashed. That petition was disposed of by the learned Single Judge on 3.01.2006 and it was declared that respondent No. 1 is not competent to conduct enquiry under Section 87(1)(h) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') and that the jurisdiction to adjudicate upon such claims is vested in respondent No.2 alone. The Court also directed respondent No. 1 to remit the file of the case to the Deputy Commissioner concerned so as to enable him to adjudicate the rival claims.

In compliance of the direction given by this Court in the second writ petition, respondent No. 2 considered the conflicting claims of the appellant and others, including respondent No.3, and passed order dated 22.03.2006. Respondent No. 2 held that the claims had not been lodged in the prescribed format and directed the claimants to file their respective applications under Section 87(1)(h) of the Act and in accordance with the Rules duly impleading the appropriate persons as respondents within a week from the date of receipt of the said order.

The appellant challenged the aforementioned order in Writ Petition No.20836 of 2005 mainly on the following grounds:

a) That when this Court directed respondent No.2 to dispose of the respondent No. 3's claims, the respondent No. 2 should have simply rejected the claim if he had found that proper procedure was not followed in making such a claim, and

b) That respondent No.2 exceeded his jurisdiction in permitting respondent No.3 and other two rival claimants to make their claims afresh in accordance with the statutory provisions and that in view of the provisions of Section 17 of the Act it is only the Government that is competent to adjudicate upon a claim of being a member of the founder's family of a Hindu Religious Institution.

The learned Single Judge considered and repelled both grounds of challenge and dismissed the writ petition.

Learned counsel for the appellant reiterated the two contentions advanced by him before the learned Single Judge. As regards the first contention of the learned counsel that respondent No. 2 should not have given liberty to the claimants to make fresh applications in accordance with law, we are in complete agreement with the finding of the learned Single Judge that respondent No.2 has not committed any illegality in doing so.

A reading of the proceedings dated 22.03.2006 of respondent No.2 show that he declined to adjudicate on the claims of the rival parties and the applications made by them as they

were not in conformity with the provisions of the Rules. In our considered view, after having found that the claims were not filed in the prescribed format, it was open to respondent No. 2 to call upon the parties to remedy the procedural defects and it is not possible for us to read any embargo or restriction on the exercise of this power by respondent No. 2.

The second ground of challenge raised by the appellant is liable to be rejected in view of order passed by the learned Single Judge in Writ Petition No.20836 of 2005 filed by the appellant. Admittedly, the learned Single Judge after a detailed consideration of the relevant provisions of the Act held that respondent No. 1 is not competent to conduct enquiry under Section 87(1)(h) of the Act for deciding as to who are the members of the founder's family and that respondent No. 2 alone is competent to exercise that power. The appellant did not challenge that order. Therefore, the same will be deemed to have become final and the appellant cannot be allowed to question the jurisdiction of respondent No. 2 to entertain and adjudicate the claim for being declared as member of the founder's family.

For the aforementioned reasons, the writ appeal fails and is accordingly dismissed.

As a sequel to dismissal of the writ appeal, WAMP.No.219 of 2007 filed by the appellant for interim relief is disposed of as infructuous.

C.V. NAGARJUNA REDDY, J.

G.S. SINGHVI, CJ.

Date: 08.02.2007
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